

Attorney's Docket No. 38867.240561

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Fenderson et al.
U.S. Patent No.: 5,990,046
Reissue Appl. No.: To be assigned Group Art Unit: 1616
Filed: Concurrently herewith
For: HERBICIDAL COMPOSITIONS COMPRISING
DIMETHENAMID AND DIKETONE OR
TRIKETONE HERBICIDES

November 21, 2001

BOX REISSUE
Commissioner for Patents
P.O. Box 2327
Arlington, VA 22202

PRELIMINARY AMENDMENT IN REISSUE APPLICATION

Dear Sir:

Please amend the above-identified application as follows:

In the Specification:

Please amend the title to read as follows:

HERBICIDAL COMPOSITIONS COMPRISING DIMETHENAMID

Please amend the *Abstract* to read as follows:

Co-application of dimethenamid and a second herbicide selected from the group consisting of triketone or dione herbicides and triazine herbicides provides improved herbicidal activity.

In the Claims:

Please amend the claims to read as follows:

1. (Amended) A herbicidal composition comprising a herbicidally effective aggregate amount of dimethenamid and a second herbicide selected from the group consisting of triketone or dione herbicides and triazine herbicides.

2. (Amended) A composition according to claim 1 wherein the second herbicide is a triazine herbicide at a weight ratio of 3:1 to 1:3 relative to the dimethenamid content.

3. (Amended) A method of controlling undesired plant growth in the presence of a crop comprising applying to the locus of said undesired plant growth a herbicidally effective aggregate amount of dimethenamid and a second herbicide selected from the group consisting of triketone or dione herbicides and triazine herbicides.

4. (Amended) A method according to claim 3 wherein the second herbicide is a triketone or dione herbicide and is selected from the group consisting of 2-(2-chloro-4-methanesulfonyl-benzoyl)-1,3-cyclohexanedione; 2-(4-methylsulfonyloxy-2-nitrobenzoyl)-4,4,6,6-tetramethyl-1,3-cyclohexane; 3-(4-methylsulfonyloxy-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 3-(4-methylsulfonyl-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)dione; 4-(4-methylthio-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)-dione; 3-(4-methylthio-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(2-nitro-4-trifluoromethoxybenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5-(4H,6H)-dione.

5. (Amended) A method according to claim 4 wherein the triketone or dione is 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)dione.

6. (Amended) A method according to claim 3 wherein the second herbicide is a triazine herbicide.

10. (Amended) A method according to claim 3 wherein the dimethenamid and the second herbicide are applied postemergence.

11. (Amended) A method according to claim 3 wherein the dimethenamid and the second herbicide are applied preemergence.

Please add the following new claims:

14. (New) A composition according to claim 1 wherein the second herbicide is a triketone or dione herbicide at a weight ratio between 1:2 and 1:10 relative to the dimethenamid content.

15. (New) A composition according to claim 14 wherein the triketone or dione herbicide is selected from the group consisting of 2-(2-chloro-4-methanesulfonylbenzoyl)-1,3-cyclo-hexanedione; 2-(4-methylsulfonyloxy-2-nitrobenzoyl)-4,4,6,6-tetramethyl-1,3-cyclohexane; 3-(4-methylsulfonyloxy-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 3-(4-methylsulfonyl-2-nitro-benzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H) dione; 4-(4-methylthio-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)-dione; 3-(4-methylthio-2-nitro-benzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(2-nitro-4-trifluoromethoxybenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5-(4H,6H)-dione.

16. (New) A composition according to claim 14 wherein the triketone or dione herbicide is 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H) dione.

17. (New) A composition according to claim 1 wherein the second herbicide includes a triketone or dione herbicide at a weight ratio between 1:2 and 1:10 relative to the dimethenamid content and a triazine herbicide at a weight ratio of 3:1 to 1:3 relative to the dimethenamid content.

18. (New) A composition according to claim 2 wherein the triazine herbicide is selected from the group consisting of atrazine, metribuzin, cyanazine, simazine, prometon, ametryn, prometryn and hexazinone.
19. (New) A composition according to claim 2 wherein the triazine herbicide is atrazine.
20. (New) A method according to claim 3 wherein the second herbicide is a triketone or dione herbicide.
21. (New) A method according to claim 3 wherein the second herbicide includes a triketone or dione herbicide and a triazine herbicide.
22. (New) A method according to claim 3 wherein the application rate of dimethenamid is from 0.1 to 3.0 kg/ha.
23. (New) A method according to claim 6 wherein the triazine herbicide is selected from the group consisting of atrazine, metribuzin, cyanazine, simazine, prometon, ametryn, prometryn and hexazinone.
24. (New) A method according to claim 6 wherein the triazine herbicide is atrazine.

REMARKS

As shown herein and in the revised claims and specification presented concurrently herewith, Applicants have amended Claims 1-6 and 10-11 and added new Claims 14-24 to correct the errors made in the present application of Applicants claiming less than they had a right to claim in the patent. For example, in issued Claims 2 and 6, Applicants claimed less than they had a right to claim by claiming the combination of dimethenamid, a triketone or dione herbicide and a triazine herbicide without including claims to the combination of dimethenamid and either a triketone or dione herbicide or a triazine herbicide. In addition, Applicants claimed less than they had a right to claim by claiming the weight ratio in Claim 1 and the application rate in Claim 3. The claims as presented in this reissue application correct these errors by claiming the combination of dimethenamid and a second herbicide selected from the group consisting of a triketone or dione herbicide and a triazine herbicide and by not requiring a particular weight ratio or application rate. These claim amendments are supported in the patent at column 2, lines 10-12 and 20-24; column 6, lines 41-42; column 7, lines 42-50; column 8, lines 33-37 and 53-60; and Example 4 (column 10, line 55 to column 11, line 31). In addition to the claim amendments discussed above, Applicants have amended Claim 4 to correct typographical errors in the chemical names provided therein.

Applicants respectfully submit that the prior art of record does not teach or suggest the invention defined in any of Claims 1-24. Accordingly, Applicants respectfully submit that all the claims are in condition for allowance and a Notice of Allowance is respectfully requested in due

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course. If any minor informalities need to be addressed, the Examiner is directed to contact the undersigned attorney by telephone to facilitate prosecution of this case.

Respectfully submitted,



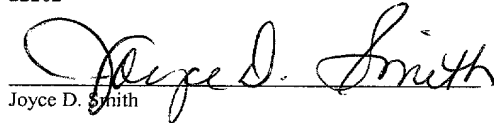
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Joyce D. Smith

CLT01/4507640v1

Version With Markings to Show Changes Made:

In the Specification:

Please amend the title to read as follows:

HERBICIDAL COMPOSITIONS COMPRISING DIMETHENAMID [AND
DIKETONE OR TRIKETONE HERBICIDES]

Please amend the *Abstract* to read as follows:

Co-application of dimethenamid and a second herbicide selected from the group
consisting of [with diketone or] triketone or dione herbicides and triazine herbicides provides
improved herbicidal activity.

In the Claims:

Please amend the claims to read as follows:

1. (Amended) A herbicidal composition comprising a herbicidally effective aggregate amount of dimethenamid and a second herbicide selected from the group consisting of triketone or dione herbicides and triazine herbicides [and dimethenamid in a weight ratio between 1:2 and 1:10].
2. (Amended) A composition according to claim 1 [further comprising] wherein the second herbicide is a triazine herbicide at a weight ratio of 3:1 to 1:3 relative to the dimethenamid content.
3. (Amended) A method of controlling undesired plant growth in the presence of a crop comprising applying to the locus of said undesired plant growth a herbicidally effective aggregate amount of dimethenamid and a second herbicide selected from the group consisting of triketone or dione herbicides and triazine herbicides [wherein the application rate of dimethenamid is from 0.1 to 3.0 kg/ha].

4. (Amended) A method according to claim 3 wherein the second herbicide is a triketone or dione herbicide and is selected from the group consisting of 2-(2-chloro-4-methanesulfonyl-benzoyl)-1,3-cyclohexanedione; 2-(4-methylsulfonyloxy-2-nitrobenzoyl)-4,4,6,6-tetramethyl-1,3-cyclohexane; 3-(4-methylsulfonyloxy-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 3-(4-methylsulfonyl-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)dione; 4-(4-methylthio-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)-dione; 3-(4-methylthio-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(2-nitro-4-trifluoromethoxybenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5-(4H,6H)-dione.

5. (Amended) A method according to claim [3] 4 wherein the triketone or dione is 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H)dione.

6. (Amended) A method according to claim 3 [further comprising] wherein the second herbicide is a triazine herbicide.

10. (Amended) A method according to claim 3 wherein the dimethenamid and the second [triketone or dione] herbicide are applied postemergence.

11. (Amended) A method according to claim 3 wherein the dimethenamid and the second [triketone or dione] herbicide are applied preemergence.

Please add the following new claims:

14. (New) A composition according to claim 1 wherein the second herbicide is a triketone or dione herbicide at a weight ratio between 1:2 and 1:10 relative to the dimethenamid content.

15. (New) A composition according to claim 14 wherein the triketone or dione herbicide is selected from the group consisting of 2-(2-chloro-4-methanesulfonylbenzoyl)-1,3-

cyclo-hexanedione; 2-(4-methylsulfonyloxy-2-nitrobenzoyl)-4,4,6,6-tetramethyl-1,3-
cyclohexane; 3-(4-methylsulfonyloxy-2-nitrobenzoyl)-bicyclo[3,2,1]octane-2,4-dione; 3-(4-
methylsulfonyl-2-nitro-benzoyl)-bicyclo[3,2,1]octane-2,4-dione; 4-(4-chloro-2-nitrobenzoyl)-
2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H) dione; 4-(4-methylthio-2-nitrobenzoyl)-2,6,6-
trimethyl-2H-1,2-oxazine-3,5(4H,6H)-dione; 3-(4-methylthio-2-nitro-benzoyl)-
bicyclo[3,2,1]octane-2,4-dione; 4-(2-nitro-4-trifluoromethoxybenzoyl)-2,6,6-trimethyl-2H-1,2-
oxazine-3,5-(4H,6H)-dione.

16. (New) A composition according to claim 14 wherein the triketone or dione
herbicide is 4-(4-chloro-2-nitrobenzoyl)-2,6,6-trimethyl-2H-1,2-oxazine-3,5(4H,6H) dione.

17. (New) A composition according to claim 1 wherein the second herbicide includes
a triketone or dione herbicide at a weight ratio between 1:2 and 1:10 relative to the dimethenamid
content and a triazine herbicide at a weight ratio of 3:1 to 1:3 relative to the dimethenamid
content.

18. (New) A composition according to claim 2 wherein the triazine herbicide is
selected from the group consisting of atrazine, metribuzin, cyanazine, simazine, prometon,
ametryn, prometryn and hexazinone.

19. (New) A composition according to claim 2 wherein the triazine herbicide is
atrazine.

20. (New) A method according to claim 3 wherein the second herbicide is a triketone
or dione herbicide.

21. (New) A method according to claim 3 wherein the second herbicide includes a
triketone or dione herbicide and a triazine herbicide.

22. (New) A method according to claim 3 wherein the application rate of dimethenamid is from 0.1 to 3.0 kg/ha.

23. (New) A method according to claim 6 wherein the triazine herbicide is selected from the group consisting of atrazine, metribuzin, cyanazine, simazine, prometon, ametryn, prometryn and hexazinone.

24. (New) A method according to claim 6 wherein the triazine herbicide is atrazine.

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